

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1, 2, 5-34 and 41-56 are currently pending. Claims 5, 20, 42, 43, and 49 are hereby canceled. Claims 1, 2, 41, 44 and 54 are hereby amended. No new matter has been introduced. Support for this amendment is provided throughout the Specification as originally filed.

II. OBJECTIONS TO THE CLAIMS

Claims 1, 2, 5-34, and 49 are objected to for a variety of informalities.

As indicated in the listing of claims above, claims 1 and 2 are hereby amended, and claims 5 and 49 are hereby cancelled, making moot the objections to the claims in this application.

Applicant respectfully requests reconsideration and withdrawal of the objections in this application.

III. REJECTIONS UNDER 35 U.S.C. §112

Claims 1-39, 45, 47, and 49 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Initially, Applicants note that claim 39 was cancelled in the previous response. Applicant understands the range of claims rejected under § 112 to be 1-38, 45, 47, and 49. The comments in this response are based on this understanding. If this is incorrect, Applicants request that the Examiner provide clarification of the rejection.

As indicated in the listing of claims above, claims 5, 20 and 49 are presently cancelled, making moot the § 112 rejections based on those claims in the present application.

As presently amended, claim 1 recites, in part,

A building module...
include[ing] **a first set of fastening elements** at a first end of the top of the module and **a second set of fastening elements** at a second, opposite, end of the top of the module, **the first set of fastening elements and the second set of fastening elements each including more than two fastening elements...**(Emphasis added)

Accordingly, an embodiment of the invention includes two sets of fastening elements, each set including more than two fastening elements. Applicants submit, one of ordinary skill in the art would recognize **a set of fastening elements** to have, for example, a plurality of individual fastening elements, the collection of elements forming the set. One of skill in the art would clearly recognize that a **set of fastening elements** contains a number of individual **fastening elements**. In particular, each set of fastening elements includes a plurality of fastening elements, and, as recited in claim 1, each set includes **more than two fastening elements**.

Applicants appreciate the Examiner's suggested amendatory language to address the § 112 rejection. However, Applicants submit that replacing the subset of fastener elements with simply "fasteners" would not improve the clarity of the claims. If the proposed change were made, the set of fastening elements would include fasteners, in which case the set would be a set of fasteners, and not a set of fastening elements.

Applicants respectfully submit that presently amended claim 1 is not indefinite. One of ordinary skill in the art, upon review of the specification as originally filed and the present claims, would understand a set of fastening elements contains multiple fastening elements.

Claim 41 as amended depends from claim 1. Therefore, claim 41 includes all of the limitations presented in claim 1, and is not indefinite for the same reasons discussed above regarding claim 1.

Applicants respectfully request reconsideration and withdrawal of the rejection under § 112, second paragraph, in this application.

IV. REJECTIONS UNDER 35 U.S.C. § 102

Claims 41-43, 45, 47, 50 and 53 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 4,599,829 to DiMartino, Sr. ("DiMartino").

As indicated in the listing of claims above, claims 42 and 43 are presently cancelled, making moot the objections to those claims. Furthermore, claim 41 is presently amended to depend from independent claim 1. Claims 45, 47, 50, and 53 depend from claim 41.

Accordingly, because DiMartino is not applied against independent claim 1, the reference no longer applies to dependent claim 41 or the claims depending from claim 41.

Applicants respectfully request reconsideration and withdrawal of the § 102 rejections based on DiMartino in this application.

V. REJECTIONS UNDER 35 U.S.C. §103

Claims 1-10, 17-21, 23, 24, 26, 30, and 34 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patents Nos. 5,072,845 to Grogan ("Grogan") in view of 3,752,511 to Racy ("Racy").

Presently amended claim 1 recites, *inter alia*,

A building module having...side, end, top and bottom faces...the module including fastening elements to allow the module to be fastened to another adjacent module...wherein the module has an overall exterior **width greater than 2700 mm** and includes **a first set of fastening elements at a first end of the top of the module** and **a second set of fastening elements at a second, opposite, end of the top of the module**, the first set...and the second set...**each including more than two fastening elements at locations spaced across the top of the module, each fastening element being spaced from another fastening element at a centre-to-centre spacing of about 2260 mm**, and wherein each of the first and second sets of fastening elements includes fastening elements at the opposite side edges of the top of the module.

Accordingly, one embodiment of the claimed module includes **a first set of fastening elements at a first end of the top of the module** and **a second set of fastening elements at a second, opposite, end of the top of the module... each [set] including more than two fastening elements...each fastening element being spaced from another fastening element at a centre-to-centre spacing of about 2260 mm**. Further, each of the first and second sets of fastening elements includes fastening elements at the opposite side edges of the top of the module.

In contrast, Grogan discloses only two fastening elements at the end of a container, and two additional fastening elements spaced apart from the end of the container. Therefore, because Grogan only discloses two fastening elements at the ends of a container, the reference fails to disclose **a first set of fastening elements at a first end of the top of the module** and **a second set of fastening elements at a second, opposite, end of the top of the module... each [set] including more than two fastening elements** as claimed.

The third and fourth elements identified in the Office Action are not at the end of the container, and therefore do not satisfy the features recited in claim 1.

As recited in the claim, the module is more than 2700mm wide and includes **a first set of fastening elements at a first end of the top of the module... each [set] including**

more than two fastening elements...each fastening element being spaced from another fastening element at a centre-to-centre spacing of about 2260 mm...and includes fastening elements at the opposite side edges of the top of the module. Accordingly, as claimed, the module has fastening elements at the side edges of the top of the module (for example, at the top corners) and the fastening elements are **spaced from another fastening element at a centre-to-centre spacing of about 2260 mm.** At a module width of 2700mm, and a centre-to-centre distance of about 2260mm between fastening elements, the claimed module includes corner fastening elements and additional fastening elements spaced apart from the corner fastening elements by about 2260mm. Because all of the fastening elements are on the end of the module, the additional fastening elements are located inwardly from the corners, for example, towards the opposite corner.

Therefore, the claimed module includes a set of more than two fastening elements, including one fastening element at each corner and one located at a centre-to-centre distance of about 2260mm from another fastening element.

Applicants submit that the number and distribution of fastening elements is not disclosed or rendered predictable by Grogan.

Applicants submit the configuration of fastening elements is not a mere design choice. The claimed module, including **a first set of fastening elements at a first end of the top of the module... each [set] including more than two fastening elements...each fastening element being spaced from another fastening element at a centre-to-centre spacing of about 2260 mm...and includes fastening elements at the opposite side edges of the top of the module,** provides advantages over the arrangements in the cited reference.

The arrangement found in Grogan requires the containers to be centered symmetrically on a transport means because the fastening elements at the ends are found near

each corner. According to Grogan, each container in a stack is centered such that the center lines of each container of the stack are aligned.

In the present invention there are fastening elements at each corner and an additional fastening element spaced inwardly from the edge of the container (that is, spaced about 2260mm from one of the corner fastening elements). The advantage of such a system is that the module can be loaded asymmetrically onto a transport system or a stack of containers.

Container transport systems, for example, container ships, routinely transport large numbers of containers in adjacent stacks. In a system such as that disclosed in Grogan, any additional width of the containers extends on both sides and cannot be easily accommodated, as the extended width interferes with the adjacent stack. For that reason, containers as disclosed in Grogan can only be slightly increased in width, if at all, before they cannot be transported in such a system because of interference with adjacent stacks.

In contrast, modules in the present invention can be placed in an outer stack in a group of stacks and, because of the offset fastening elements, can be secured so that one side of the module is flush with the other containers in the stack and the other side of the module extends outwardly from the outer edge of the other modules in the stack of modules. Therefore, the modules of the present invention can be wider than a standard container, for example, wider than 2700mm, while still transportable in conventional bulk container transport systems.

Therefore, contrary to the assertion in paragraph 18(c) on page 6 of the Office Action, the claimed width of greater than 2700mm, or in the range of 2700mm to 5000mm, coupled with the offset dimension of fastening elements of about 2260mm inward from the top corner of the module is not obvious, nor a matter of design choice. Furthermore, Grogan fails to disclose or render predictable a module system including fastening elements arranged at the specified spacing along the top end edge of a module.

On page 7, in paragraph 18(g), the Office Action concedes that Grogan fails to disclose fastening elements are connected to other modules via a connector having a plate, a first lug, and a second lug, the lugs projecting from above and below the plate, respectively. The Office Action asserts such a teaching can be found in Racy.

Initially, Applicants understand the Office Action to mean Grogan fails to disclose modules (not fastening elements as indicated) are connected to other modules via a connector. Comments below are presented with this understanding. If this understanding is incorrect, Applicants request clarification from the Examiner.

Applicants submit that the claims as presently amended do not include a recitation of features of the connection system. Accordingly, even if the teaching of Racy is as asserted, the secondary reference fails to correct the deficiencies discussed above.

For at least the foregoing reasons, it is believed that revised independent claim 1 patentably distinguishes over the relied upon portions of Grogan and Racy, either alone or in combination, and is therefore allowable. Further, claims 2, 6-19, 21-34, 41, 44-48, and 50-56, which depend from claim 1, are allowable as well.

The Examiner has made of record, but not applied, several documents. The Applicants appreciate the Examiner's implicit finding that these documents, whether considered alone or in combination with others, do not render the claims of the present application unpatentable.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicants' undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

CONCLUSION

In view of the foregoing, it is believed that the present application is in condition for allowance. Accordingly, Applicants' attorneys respectfully request that a timely Notice of Allowance be issued in this case.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
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